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TAGS: [PGOV](#) [KDEM](#) [NI](#)

SUBJECT: NIGERIA: TRIBUNAL UPHOLDS PRESIDENTIAL ELECTION

REF: A. 07 ABUJA 2352

[1](#)B. ABUJA 343 AND PREVIOUS

Classified By: Political Counselor Walter Pflaumer for reasons 1.4. (b & d).

[1](#)1. (SBU) On February 26, the Presidential Election Tribunal in Abuja upheld the April 2007 election of President Musa Umaru Yar'Adua and Vice President Goodluck Jonathan (People's Democratic Party - PDP). In a packed courtroom surrounded by tight security, Justice Abdulkadir Abubakar Jega spent three hours reading aloud the tribunal's verdict, which rejected the election challenges filed by both Muhammadu Buhari (All Nigerian People's Party - ANPP) and Atiku Abubakar (Action Congress - AC) on all grounds. Only four of the panel's five judges were in attendance, as the presiding judge, Justice James Ogebe, was notably absent, probably due to his recent nomination to fill a vacant Supreme Court seat.

[1](#)2. (U) President Yar'Adua is in China, but the Presidency issued a statement on his behalf, in which he said he was "gratified" by the verdict and urged his opponents to accept the ruling in good faith and cooperate with him to move Nigeria forward. Opposition spokesmen, including Buhari's lawyer Mike Ahamba and AC Spokesman Lai Mohammed registered shock at the verdict, noting that despite the weight of evidence presented by the petitioners, the tribunal had dismissed all the issues they raised. Both Atiku Abubakar and General Buhari have pledged to challenge the tribunal verdict at the Supreme Court. Innocent Chukwuma, the chairman of Nigeria's domestic election observer organization the Transition Monitoring Group, told the media that the judgement was "very disappointing" and said it had taken Nigerians back two or three decades to "the era when electoral disputes were decided on technicalities rather than substance."

[1](#)3. (C) COMMENT: After pushing through riot police and a swarm of journalists, Poloffs were able to attend the February 26 court session. General Muhammadu Buhari, Attorney General Michael Aondokaa, Information Minister John Odey, and at least three Governors were also part of the standing-room only crowd. The atmosphere in the courtroom was tense and it became apparent early in the 3 hour session that the tribunal was ruling uniformly against the petitioners. There were incredulous looks on the faces of many lawyers as well as frustrated laughter at some of the points raised in the tribunal ruling. Though opposition supporters had told

Poloffs previously that they had more confidence in the Supreme Court than the tribunal, it was still apparent that many opposition lawyers were shocked at the way in which the tribunal totally rejected all their challenges to the validity of the election. The verdict seemed not even to acknowledge there had been problems with the election, as the judges insisted on all counts that insufficient evidence had been provided to prove substantial violations of the electoral law.

¶4. (C) COMMENT CONTINUED: Today's verdict showcases just how difficult it is to prove election fraud under Nigerian law. Though everyone on the street knows what the 2007 election looked like, proving that problems existed and showing that those problems materially affected the election's outcome is very difficult (a point which one of Yar'Adua's lawyers stressed in our conversation(ref. A) with him). Today's ruling is at least a major step toward final victory for President Yar'Adua, and it will certainly help him consolidate support within his own PDP prior to the party's March 8 national convention. The tribunal's verdict will certainly be appealed to the Supreme Court, but the track record thus far is for the appellate court to uphold election tribunal decisions. Nonetheless, we would still expect its ruling to be more strongly critical of the many flaws of the 2007 election (as was the case in its ruling on the 2003 election). END COMMENT.  
SANDERS